IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.165 OF 2007
IN
WRIT PETITION NO.8265 OF 2005

Saiman Engineers & Anr. .. Appellants

Vs.

Ashok E. D'souza and Ors. .. Respondents

Mr.R.S.Pai h/f Mr.G.M.Thomas and Mr.Annapurna Jari for the appellants

Mr.K.S.Patil for respondent nos.1 to 5

CORAM : J.N.PATEL &
A.A.SAYED, JJ.

DATED : 4TH SEPTEMBER, 2007

P.C.:

1. Heard.

2. The employer who has filed this Letters Patent Appeal has impugned the order passed by the Industrial Court and upheld by the learned single Judge of this court on the ground that the Industrial Court acted beyond his Jurisdiction and has allowed the complaint which was not maintainable as the alleged unfair labour practice

could not come under item 9 of Schedule IV of the MRTU & PULP Act, 1971 at the most it may fall under Item 1 and the Jurisdiction for entertaining such complaints vests with the Labour court. Further, it is contended that the member of the learned Industrial Court took upon itself to compute legal dues relating to payment of Gratuity and so on which has to be determined independently under the Gratuity Act.

3. On the other hand, the learned counsel for the respondents / employees submits that the Judgment and Order does not call for any interference for the very reason that though the employees challenge the method and manner the services came to be determined, but in substance they have sought for implementation of the agreement which on submitting resignation entitles them for all the dues which have been specified in para 3 (g) of the complaint and the Industrial Court has accordingly granted the same and has rightly observed that the nature of complaint would come under item 9 of Schedule IV of the said Act.

4. We find that while dealing with the case under item 9 of Schedule IV of the MRTU and PULP Act, 1971, the Industrial Court is vested with the Jurisdiction to ascertain the legal dues which flow from the agreement settlement arrived at between the parties i.e. the employer and the employees. Therefore, we do not find any error or illegality in the decision rendered by the Industrial Court and upheld by the learned single Judge of this court.

5. An attempt was made to canvas before us that even the calculations are not properly done and the court has granted interest @ 12%. But we find that the calculation has been done as per the claim so established by the employees before the Industrial Court and as it is based on facts, therefore, no interference is called for. Letters Patent Appeal is dismissed accordingly.

5. In view of the dismissal of the L.P.A. Civil Application No.298 of 2007 does not survive. The same is also disposed of as infructuous.

(J.N. PATEL, J)

(A.A. SAYED, J)